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09/892,527

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICANT : Stephanie M. GRASSO

SERIAL NO. : 09/892,527

FILED : June 28, 2001

FOR : SUPPLEMENTAL REMOVABLE OUTERSOLE FOR FOOTWEAR

GROUP ART UNIT : 3728

EXAMINER : Marie D. PATTERSON

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Fred Grasso (Reg. No. 43,644)

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REPLY BRIEF

Appellant respectfully submits this Reply Brief in support of her appeal from the August 28, 2003, final rejection, and in response to the February 20, 2004, Examiner's Answer.

1. **The Examiner's New Argument With Respect To Yavitz Is Unavailing.**

The Examiner Answer argues, for the first time, that the golf shoe in Yavitz may be modified further by removing its spikes completely and then attaching those spikes to the bottom of the green protector 52. The Answer specifically argues “the user would simply put the removable sole on for providing a spiked sole and remove the removable sole when putting on a floor/hard surface and needing a spikeless shoe.”

This argument fails for several reasons. For one, Yavitz does not teach a broad “system to modify/alter/provide a different traction means to the bottom sole of a shoe,” as now argued in the Examiner’s Answer. Rather, Yavitz simply provides a way to cover spikes from a golf shoe on a putting green. To say that the Yavitz system is somehow reversible such that the golf shoe would not have spikes, ignores Yavitz’s point, purpose, and repeated explicit teachings. For another, even if the spikes were removed from the golf shoe in Yavitz, the stiffener layer could no longer be considered essential, so there would be no longer any reason to employ the same stiffener layer and resilient portion in speculative designs. Indeed, as shown in Evans, one of skill in the art would use clips or magnets and a *non-continuos* base plate to secure spikes to the bottom of a shoe.

As to the quoted portion of column 4 of Yavitz, it is a generic statement that reads in its entirety “[t]hese and other modifications may be made in the design and arrangement of the elements without departing from the scope of the invention *as expressed in the appended claims.*” (Emphasis added). Thus, it regards the preceding discussion in the paragraph regarding the depth of the pad and the mesh that it may be made out of and the scope of the claims that

follow. It does not provide any explicit teachings, general or specific, which can or should render Appellant's pending claims obvious.

2. The Rounded Cones in Johnson Are Not Truncated As In Claim 7.

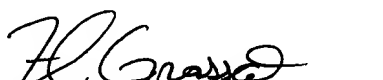
The American Heritage College Dictionary (3d ed. 1997) defines truncated as "1. Having the apex cut off by a plane, esp. one parallel to the base. Used of a cone or pyramid." As recognized by the Examiner's Answer, the smaller spikes in Johnson have rounded tops, thus, they are not truncated as that term has been used in the specification, during prosecution, and as recited in claim 7.

For the foregoing reasons and for those reasons set out in her Appeal Brief, the Appellant respectfully submits that the rejections of the pending claims should be reversed.

Respectfully submitted,

Dated: April 20, 2004

By:



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